



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

RECONSIDERATION DENIED: December 9, 2008

CBCA 97

WHEELER LOGGING, INC.,

Appellant,

v.

DEPARTMENT OF AGRICULTURE,

Respondent.

Alan I. Saltman of Saltman & Stevens, P.C., Washington, DC, counsel for Appellant.

James L. Rosen, Office of the General Counsel, Department of Agriculture, San Francisco, CA, counsel for Respondent.

STERN, Board Judge.

Appellant, Wheeler Logging, Inc. (Wheeler), moves for reconsideration of the Board's decision dismissing, for lack of jurisdiction, appellant's claims for idle equipment costs, unabsorbed overhead, and interest. Wheeler claims that the Board erred by failing to properly apply the standard established by the United States Court of Appeals for the Federal Circuit regarding the need for the recertification of a claim under the circumstances before us.

The argument presented by appellant has been already considered by the Board in reaching its determination to dismiss certain of appellant's claims. Indeed, much of appellant's argument is taken from the dissenting opinion of our earlier decision.

The motion for reconsideration is **DENIED**.

JAMES L. STERN
Board Judge

We concur:

HOWARD A. POLLACK¹
Board Judge

JERI KAYLENE SOMERS
Board Judge

¹ For reasons stated in my dissent, I would not dismiss those portions of the appeal that were dismissed. However, I concur with the majority in their basis for denying reconsideration.